

[20th December 1954]

APPENDIX V.

[Vide item IV on page 442 supra]

THE MADRAS DRAMATIC PERFORMANCES BILL,
1954.

COMPOSITION OF THE SELECT COMMITTEE.

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. RAJARAM.
- 4 Sri C. RAJAM RAMASWAMI.
- 5 Sri M. D. THYAGARAJA PILLAI.
- 6 Sri K. ARANGANATHAN.
- 7 Sri S. N. SOMAYAJULU.
- 8 Sri A. ANTONY PETER.
- 9 Sri P. G. MANICKAM.
- 10 Sri K. VINAYAKAM.
- 11 Sri V. GOVINDASWAMI NAIDU.
- 12 Sri K. M. SEETHI SAHIB.
- 13 Sri S. SWAYAMPRAKASAM.
- 14 Sri A. VELOO.
- 15 Sri S. S. KOLKEBAIL.
- 16 Sri M. KALYANASUNDRAM.
- 17 Sri T. C. NARAYANAN NAMBIAR.

*Secretariat.*Sri R. V. KRISHNA AYYAR, *Secretary*.REPORT OF THE SELECT COMMITTEE ON THE MADRAS
DRAMATIC PERFORMANCES BILL, 1954 (L.A. BILL
No. 37 OF 1954).

To

THE HONOURABLE LEGISLATIVE ASSEMBLY,
MADRAS.

The Select Committee appointed to consider the Madras Dramatic Performances Bill, 1954 (L.A. Bill No. 37 of 1954), has the honour to make the following report.

2. The Bill was published in English in the *Fort St. George Gazette* Extraordinary, dated the 27th November 1954, and in Tamil, Telugu, Malayalam, Kannada and Hindustani in the *Gazette*, dated the 8th December 1954.

3. The Committee was appointed on the 8th December 1954.

4. The Committee met at the Ministers' Room, Government Estate, on the 11th December, the Committee Room at Fort St. George on the 13th and 15th December and the Ministers' Room, Government Estate, on the 16th December 1954.

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5. At its meeting on 11th December 1954, the Committee decided to receive representations from persons interested in the Bill. Accordingly at its meeting on the 13th and 15th December 1954, it heard oral representations of several persons who appeared before it. It has also read the various written memoranda submitted to it by them and others.

6. The Select Committee has subjected the clauses of the Bill to a careful scrutiny and as a result of such scrutiny has made various important changes in them.

Clause 2.

Sub-clause (1) of this clause defines an objectionable performance. In this sub-clause, in items (i) and (ii), the words "or encourage" have been omitted, as they are somewhat indefinite and may unduly enlarge the scope of the items.

Item (iii) of the sub-clause has been omitted.

Items (v) and (vi).—These relate to promotion of sectional enmity or hatred or to insult of religion or religious beliefs. These items have been examined by the Select Committee from every point of view and it has finally resolved that item (v) should be restricted only to incitements to violence of one section of the people against another and that item (vi) should be confined to performances which are deliberately intended to offend any section of the people of India by insulting, profaning or blaspheming their religion or religious beliefs.

These changes have led to certain drafting changes in the sub-clause.

The Select Committee thinks that the explanations existing in clause 4 of the Bill should more appropriately be inserted under clause 2. As regards the explanations themselves, the Select Committee has deleted Explanation III which contains only a definition of 'sabotage'. As regards Explanation II, it is redrafted as follows:—

"In judging whether any performance is an objectionable performance, the effect of the play, pantomime or drama shall be considered as a whole."

Clause 3.

This clause has been omitted. But clause 12 has been so altered as to make it clear that where no action has been taken against an objectionable performance under this Bill, nothing in it shall bar a prosecution under any other relevant section of the Indian Penal Code or any other law.

Clause 4.

Sub-clause (2).—Notice under this sub-clause should be issued only against the organizers or other principal persons responsible for the performance and to the owner or keeper of the place of performance. It has altered the sub-clause accordingly.

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Clause 5.

This clause refers to temporary prohibitions of objectionable performances. The Select Committee considers that it is not necessary to empower the State Government to pass orders of such prohibition. It also thinks that the officer empowered in this behalf should be no less a person than the Collector of a district in the mufassal and the Commissioner of Police in the City of Madras. As at present worded, the clause applies to any performance, whether of an objectionable nature or not. But the Select Committee has restricted it to objectionable performances of the nature specified in sub-clause (1) of clause 2.

Clauses 7 and 8.

The maximum penalty provided in these clauses has been reduced to imprisonment for three months or a fine of Rs. 1,000 or both. In clause 8, sub-clause (b) has been omitted, with the result that persons merely assisting an objectionable performance will not be liable to be prosecuted under this Bill. The clause (clause 8) has been split up into two so as to make its meaning clearer.

Clause 9.

In this clause for the words "the principal persons about to take part in such performance", the words "the organizer or principal person responsible for the conduct of the performance" had been substituted.

Clause 10.

In this clause also, the words "District Collector in the mufassal and the Commissioner of Police in the City of Madras" have been substituted for the words "such officer as the State Government may empower in this behalf".

This clause contains a provision for a temporary prohibition of a performance in the event of failure to furnish a copy or purport of a drama not less than fifteen days before the performance. The Select Committee has reduced the period of notice from fifteen days to seven days.

Clauses 11 and 15.

In these clauses the references to "orders passed under the Dramatic Performances Act, 1876" have been omitted as unnecessary.

In clause 11, a provision has been added to the effect that every appeal under it to the High Court shall be disposed of by a Bench consisting of not less than two Judges.

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Clause 14.

The Committee considers that the rules made under this clause must be placed on the tables of both the Houses of the Legislature. This clause has been amended accordingly.

A copy of the Bill as revised by the Select Committee is annexed.

The Committee considers that the changes made by it in the Bill are not of such importance as to necessitate the republication of the Bill.

The dissenting minutes given by certain members are annexed *.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS,
16th December 1954.

C. SUBRAMANIAM,
Chairman.

ANNEXURE.

[*Note.*—The changes made are side lined or underlined and the portions omitted are indicated by dots.]

L.A. BILL No. 37 OF 1954.

A Bill to provide for the better control of public dramatic performances in the State of Madras.

WHEREAS it is expedient to provide for the better control of public dramatic performances in the State of Madras;
BE it enacted in the Fifth Year of the Republic of India as follows :—

1. *Short title and extent.*—(1) This Act may be called the Madras Dramatic Performances Act, 1954.

(2) It extends to the whole of the State of Madras.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(1) “ objectionable performance ” means any play, pantomime or other drama which is likely to—

(i) incite . . . any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area ; or

(ii) incite . . . any person to commit murder, sabotage or any offence involving violence ; or

(iii) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force ; or

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(iv) incite any section of the citizens of India to acts of violence against any other section of the citizens of India ; or which—

(v) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class ; or

(vi) is grossly indecent, or is scurrilous or obscene or intended for blackmail ;

Explanation I.—A performance shall not be deemed to be objectionable merely because in the course thereof words are uttered, or signs or visible representations are made, expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means.

Explanation II.—In judging whether any performance is an objectionable performance the play, pantomime or other drama shall be considered as a whole.

(2) “ public place ” means any building or enclosure, or any place in the open air and any pandal where the sides are not enclosed to which the public are admitted to witness a performance.

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3. Power to prohibit objectionable performances.—(1) Whenever the State Government are satisfied that any play, pantomime or other drama performed or about to be performed in a public place is an objectionable performance, they may, by order stating the grounds on which they consider the performance objectionable, prohibit the performance.

(2) No order under sub-section (1) shall be passed without giving a reasonable opportunity to the organizer or other principal persons responsible for the conduct of the performance or to the owner or occupier of the public place in which such performance is intended to take place to show cause why the performance should not be prohibited.

(3) Every order made under sub-section (1) shall be published in the *Fort St. George Gazette*.

(4) Any order made under sub-section (1) may also be notified by proclamation and a written or printed notice thereof may be affixed at any place or places adopted for giving information of the order to the persons intending to take part in the performance so prohibited.

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4. Power to prohibit objectionable performances temporarily.—

(1) The Commissioner of Police in the Presidency town or the District Collector elsewhere may, if . . . he is of opinion that any play, pantomime or other drama performed or about to be performed being of the nature specified in section 2 is likely to lead to a breach of the peace, by order stating the grounds for such opinion, prohibit its performance.

(2) Subject to any order made by the Court on appeal under section 10, an order under this section shall remain in force for two months from the making thereof :

Provided that the Commissioner of Police or the District Collector, as the case may be, may, if . . . he is of opinion that the order should continue in force, by such further order or orders as . . . he may deem fit, extend the period aforesaid by such further period or periods not exceeding two months at a time as may be specified in such order or orders.

5. Service of order of prohibition.—A copy of the order made under section 3, sub-section (1), or under section 4, sub-section (1) or sub-section (2), may be served personally or in such other manner as may be prescribed by rules made under section 13, on the organisers or other principal persons responsible for the conduct of or any person about to take part in, the performance so prohibited or on the owner or occupier of the public place, in which such performance is intended to take place.

6. Penalty for disobeying order.—Any person on whom a copy of the order referred to in section 3 or section 4 is served and who does, or willingly permits, any act in disobedience . . . of such order, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

7. Penalty for disobeying prohibition.—(1) Any person who, after the publication of an order under section 3, sub-section (3), or during the period when an order made under section 4, sub-section (1) or sub-section (2), is in force organises or is responsible for the conduct of, or takes part in, the performance prohibited thereby or . . . any performance substantially the same as the performance so prohibited, shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Any person who being the owner or occupier, or having the use of any public place, opens, keeps or uses the same for any . . . performance prohibited under section 3 or section 4, or permits the same to be opened, kept or used for any such performance,

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shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

8. Power to call for information.—(1) For the purpose of ascertaining the character of any intended play, pantomime or other drama, the State Government, or such officer as they may empower in this behalf, may, by order, require the organisers or other principal persons responsible for the conduct of, or other persons about to take part in such play, pantomime or other drama or the author, proprietor or printer of the play, pantomime or other drama about to be performed, or the owner or occupier of the place in which it is intended to be performed, to furnish such information as the State Government or such officer may think necessary.

(2) Every person so required shall be bound to furnish the information to the best of his ability within the time specified in such order and in case of contravention shall be deemed to have committed an offence under section 176 of the Indian Penal Code (Central Act XLV of 1860).

9. Power to call for copy of purport of drama, etc.—(1) If the State Government or in the Presidency town the Commissioner of Police or elsewhere the District Collector, have or has reason to believe that an objectionable dramatic performance is about to take place, they or he, as the case may be, may, by order, direct that no such dramatic performance shall take place in any public place within any area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than seven days before the performance, to the State Government the Commissioner of Police or the District Collector aforesaid.

(2) A copy of any order made under sub-section (1) may be served on the owner or occupier of the public place in which such performance is intended to take place, and if thereafter he does or willingly permits, any act in disobedience of such order, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

10. Appeal to High Court.—(1) Any person aggrieved by an order under section 3, sub-section (1), or under section 4, sub-section (1) or sub-section (2), may, within sixty days of the publication of such order under section 3, sub-section (3), or, as the case may be, within sixty days of the date on which an order under section 4, sub-section (1) or sub-section (2), is made, ... prefer an appeal to the High Court; and upon such appeal, the High Court may pass such orders as it deems fit confirming, varying or reversing the order appealed from, and may pass such consequential or incidental orders as may be necessary.

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(2) Every appeal shall be heard by a Bench of not less than two Judges.

11. Saving of prosecutions under other laws.—Where no order under section 3 or section 4 has been made in respect of any performance, nothing in this Act shall bar a prosecution under the Indian Penal Code (Central Act XLV of 1860) or any other law.

12. Protection for acts done in good faith.—No suit, prosecution or other legal proceeding shall be instituted against any authority or officer for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

13. Power to make rules.—(1) The State Government may, by notification in the *Fort St. George Gazette*, make rules to carry out the purposes of this Act.

(2) All rules made by the State Government under subsection (1) shall, as soon as possible after they are made, be laid on the table of the Houses of the Legislature.

14. Repeal of Central Act XIX of 1876.—(1) The Dramatic Performances Act, 1876 (Central Act XIX of 1876), in so far as it applies to the State of Madras, is hereby repealed.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS,
16th December 1954.

R. V. KRISHNA AYYAR,
Secretary to the State Legislature.

PROCEEDINGS OF THE SELECT COMMITTEE ON THE
MADRAS DRAMATIC PERFORMANCES BILL, 1954
(L.A. BILL No. 37 OF 1954).

(As approved by the Chairman.)

The Select Committee met at 5-10 p.m. on Saturday, the 11th December 1954 in the Ministers' Room in Government Estate, Mount Road, Madras.

All the members of the Committee were present.

The Committee resolved to meet at 4 p.m. on Monday, the 13th December 1954 in the Committee Room, Fort St. George.

It also resolved to hear representations from persons interested in the Bill at that meeting. It was resolved that in addition to the Press Note, dated 8th December 1954, already inserted in the papers, another Press Note be inserted to the effect that the Select Committee will hear representations from persons interested in the Bill at 4 p.m. on the 13th instant.

At the request of Sri S. S. Kolkebail and a few other members, the Hon. the Finance Minister agreed to make available to members copies of the objectionable portions of the drama "Kimayanam".

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It was resolved that the Advocate-General and the Law Secretary be requested to be present at the meeting on 13th instant.

Monday the 13th December 1954.

The Select Committee met at 4 p.m. on 13th December 1954 in the Committee Room, Fort St. George, Madras.

The following members were present :—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 Sri K. RAJARAM.
- 3 Sri C. R. RAMASWAMI.
- 4 Sri M. D. THYAGARAJA PILLAI.
- 5 Sri A. ANTONY PETER.
- 6 Sri P. G. MANICKAM.
- 7 Sri K. VINAYAKAM.
- 8 Sri V. GOVANDASWAMI NAIDU.
- 9 Sri S. SWAYAMPRAKASAM.
- 10 Sri A. VELOO.
- 11 Sri S. S. KOLKEBAIL.
- 12 Sri M. KALYANASUNDRAM.
- 13 Sri T. C. NARAYANAN NAMBIAR.

The Advocate-General, the Secretary to Government, Law Department, and the Secretary to the State Legislature were also present.

The Committee proceeded with the examination of witnesses and Sri T. K. Shanmugam and six others representing the South Indian Actors' Association, were first examined.

Sri T. K. Shanmugam read a printed memorandum in Tamil and submitted the same to the Committee.

Answering questions put by the Chairman, Sri Shanmugam said that the Bill was likely to affect many of the dramas. Even at the present time, there are some officers who harass the organizers of dramas. If further wide powers were given to them, they are likely to misuse them. Many of those in the dramatic profession did not know that there was already an Act to regulate the conduct of dramas. In our country the dramatic art had not progressed well enough. So, in many cases, there would be no script containing the dialogues, songs, etc. For instance, in the case of "Special Dramas", which were conducted at short notice, there would be no script at all relating to dialogues, songs, etc. The actors would arrive only on the day of the drama and would act according to their skill. In such cases, the script could not be submitted beforehand, and if a script was insisted on, it would retard the progress of the dramas. However, if during an actual performance, a drama was found to contain objectionable matter, it could afterwards be stopped.

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Sri Shanmugam said further that the impression one was likely to get while reading a script and the impression that one was likely to get on actually seeing the drama on the stage would be completely different. Therefore, the objectionable nature of a drama could not be decided by merely reading a script.

The Chairman explained that it was not the intention of the Government to retard the progress of the dramatic art. The Government were of the view that if the conduct of drama was not regulated in such a way that it did not harm society as a whole, the art itself was likely to languish. From that point of view, if it was considered by all that a particular drama contained certain objectionable matter which was likely to do considerable harm to society, should not the Government have the power to prohibit it?

The witness agreed that such dramas might be prohibited, but added that care should be taken in deciding what was objectionable matter and who was to decide whether a particular drama was objectionable or not.

The Chairman then invited the views of the witnesses on the different clauses of the Bill.

Clause 2—Definitions.

Item (i).—The witnesses agreed to this item.

Item (ii).—Sri Sahasranamam and Sri M. G. Ramachandran requested that the whole play should be taken into account and not particular statements in it. Moreover there may be historical dramas and fictitious stories which may seem to advocate revolt against despotic rule. Such dramas should not be banned as capable of being applied to the existing Government.

Item (iii).—The Chairman said that the Government were considering whether this item could be deleted and that he was not anxious to have it.

Item (iv).—The witness agreed to this item.

Item (v).—The Chairman asked the witnesses whether they are agreeable to the prohibition of such dramas which incited certain sections to acts of violence against other sections such as looting houses, murder, molestation of women and so on. The witnesses replied that if a drama were to incite to such acts of violence, it could be prohibited.

Item (vi).—The Chairman said that though there was freedom to do propaganda in favour or against religion, there was no need to slander certain religious characters whom the people held as Gods. He asked whether the witnesses would agree to the prohibition of dramas containing matter which intentionally and maliciously slandered the revered religious characters. The witnesses agreed to the prohibition of such dramas.

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Clause 3.

The Chairman enquired whether it would be all right if it was said that action would be taken only against the organizers or persons who were principally responsible for the staging of an objectionable drama. The witnesses had no objection but doubted whether it was possible to find out who such persons were. They had no objection to a proviso that no action shall be taken without the previous sanction of the Government or the recommendation of the Advocate-General or the Public Prosecutor. But they were of the view that the clause might be omitted altogether.

The Chairman said that the necessity for the clause would be further examined.

Clause 5.

The witnesses agreed to vesting power to prohibit objectionable performances temporarily in an officer not below the rank of a District Magistrate.

Clause 7.

The witnesses suggested that the punishment provided was excessive and had no objection to the fixing a period of three months' imprisonment and a fine not exceeding Rs. 1,000 as maximum.

Clause 10.

The witnesses agreed to the Government calling for a summary or purport of the drama.

Clause 11.

The witnesses pointed out that a provision for an appeal to the High Court might not be useful in several cases as the aggrieved party may not be able to go up to the High Court. The Chairman asked them whether they would agree if the Government themselves referred all orders passed either by the District Magistrate or by themselves to the High Court for its decision in all cases in which the parties concerned objected to the order and asked the Government to refer it to the High Court. The witnesses agreed to the latter course.

The witnesses then withdrew.

2. Sri M. R. Radha was next examined by the Committee.

Sri Radha said that there should not be any legislation to regulate the conduct of dramas. If any individual committed an offence, he might be punished after and for the offence but for his fault the whole dramatic profession should not be penalized. When people had freedom to speak anything they liked in a public platform, there should not be a ban against dramas only. It was not his intention to wound the feeling of anybody; his play "Ramayana" was based on Valmiki Ramayana and certain other

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commentaries. One Thangaraju had written the script of his play. "I would not proceed with a drama which really wounded the religious feelings of any section of the people." If the Chairman were to say that his drama wounded such feelings, he was prepared to stop it and for this purpose there was no need for a legislation of this kind. He wanted that even the existing Act should be repealed.

The witness then withdrew.

3. Sri S. Guruswami, Editor, "Viduthalai", next gave evidence. He said: "This Bill should be dropped as there is already a provision in the Indian Penal Code. If this Bill must come into force, at least the sub-clauses (v) and (vi) of clause 2, relating to (1) wounding of religious feelings and (2) inciting class hatred must be omitted. If these provisions are allowed to remain there would be no scope for any social reform. Moreover when a public speaker is not required to submit a script of his speech beforehand, there is no point in asking for the submission of the script relating to a drama. This is clearly a discrimination between an actor and a speaker. I say that this Bill is superfluous."

The witness then withdrew.

4. Sri Raja Ram and Sri Adikesavalu were then examined. They said that those religious characters whom people considered as Gods should not be vilified in dramas, that such vilification was certain to lead to breaches of the peace and it was necessary to ban dramas of that kind. Nobody should be allowed to insult religion or religious feelings of others. If some people did not like a particular religion, it is open to them to keep quiet or go to other religions or preach atheism, if they wanted. But they should not be allowed to vilify Gods or outrage the religious feelings of other people and abuse scriptural heroes whom people consider as Gods.

5. Sri Sekkilar, Madras Law College Tamil Sangham: The witness said that the Sangham had passed a resolution to the effect that the bill was not necessary. He said that as there were already provisions in the Indian Penal Code itself to prevent objectionable performances, there was no need for the present Bill. He further said that some of the clauses of the present Bill offended the fundamental rights guaranteed under the Constitution and that the Bill punished offences committed even unintentionally. He would have no objection if the Bill penalized wilful and intentional offences.

6. Sri Loganathan, Dravida Kazhagam, Mylapore, was then examined. He said that there was much opposition to the present Bill. Certain incidents might be enacted in a drama as a piece of entertainment and nobody need take serious notice of such things. There were people who believed in God and there were also those who did not believe in God. Just as the Government had not objected to the enactment of dramas in which Rama and others

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were treated as Gods, the Government should also not object to dramas wherein they were not treated as Gods. Or, all dramas having reference to Gods should be banned.

The witness then withdrew.

7. Sri R. M. Alagar presented to the Committee a memorandum signed by some people and which stated that the signatories to that memorandum were opposed to the present Bill.

The Chairman explained to Sri Kalyanasundram and Sri Swayamprakasam that when he put certain proposals before the witnesses, it was for the purpose of finding out how far they would go and that his questions should not be taken as Government proposals. He had not bound the members of the Select Committee to any particular view or proposal. It is for the members of the Select Committee to arrive at final decisions with regard to the various clauses.

It was agreed that the Committee should meet at 2-30 p.m. on Wednesday, the 15th December 1954 in the Committee Room, Fort St. George, and proceed with the consideration of the clauses. The Committee also agreed to interview for one hour any persons interested in the Bill who may appear to give evidence on that day.

The Committee then adjourned.

Wednesday the 15th December 1954.

The Select Committee met in the Committee Room, Fort St. George, at 2-30 p.m. on Wednesday, the 15th December 1954. The following Members were present :—

The Hon. Sri C. SUBRAMANIAM (*Chairman*).
 The Hon. Sri M. A. MANICKAVELU NAICKER.
 Sri K. RAJARAM.
 Sri C. R. RAMASWAMI.
 Sri M. D. THYAGARAJA PILLAI.
 Sri K. ARANGANATHAN.
 Sri S. N. SOMAYAJULU.
 Sri A. ANTONY PETER.
 Sri P. G. MANICKAM.
 Sri S. SWAYAMPRAKASAM.
 Sri A. VELOO.
 Sri S. S. KOLKEBAIL.
 Sri M. KALYANASUNDRAM.
 Sri T. C. NARAYANAN NAMBIAR.

The Advocate-General, the Secretary to Government, Law Department, and the Secretary to the State Legislature were also present.

Sri S. Venkatrangam of the Gem & Co. was examined. He stated that he was connected with the management of two temples in the city and several charitable institutions. He was of the view that the propagation of anti-religious sentiments in dramatic

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performances should not be allowed as it was sure to wound the feelings of the religious minded sections of the people. This was especially the case in a country like India which was a religious minded country. Asked by the Chairman whether he had studied the Bill, the witness stated that he had generally been applying his mind to the Bill published in the papers but had not scrutinized the clauses.

The witness then withdrew.

The Committee then waited for more than half an hour afterwards but no other witnesses turned up. The Committee then took up the consideration of the Bill.

Sri S. Swayamprakasam brought to the notice of the Committee that Sri Audikesavalu's reply to his question about what the witness meant by the word "religion" did not find a place in the draft minutes of 13th December 1954. It was agreed that the following sentence be added on to the minutes in the appropriate place :—

"In reply to a question by Sri S. Swayamprakasam as to what he understood by the term 'religion', the witness stated that by religion he meant 'truth, discipline and character'."

Before proceeding with the clauses, Sri M. Kalyanasundram moved "that the Select Committee Report to the Assembly that the Bill be dropped". After some discussion, this motion was negatived, three members voting for the motion, seven members voting against it and one member remaining neutral.

Clause 2.

Sub-clause (1), item (i).—Sri S. Swayamprakasam pointed out that the words "or in any State thereof" were unnecessary. After some discussion, it was resolved to leave the clause as it stood.

Sub-clause (1), items (i) and (ii).—The Committee agreed to delete the words "or encourage" as they were too indefinite and wide.

Sub-clause (1), item (iii).—The Chairman said that the Government had no objection to delete this item. It was accordingly deleted.

Sub-clause (1), item (iv).—Sri M. Kalyanasundram suggested that the words "or his duty" were too wide and that they might be omitted. Sri S. Swayamprakasam thought that the expression "prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force" was also too wide. It was pointed out that the words "seduce any member of any of the armed forces . . . force" were copied from corresponding sections in the Indian Penal Code. The Committee agreed to leave the clause as it stood.

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Sub-clause (1), item (v).—The Committee agreed to substitute for this item the following :—

“ incite any section of the people of India to acts of violence against any other section of the people of India; or ”.

Sub-clause (1), item (vi).—At the instance of the Advocate-General, the following words were substituted for the existing item : “ which is deliberately and maliciously intended to outrage the religious feelings of any class of the citizens of India by insulting the religion or any religious figure of that class ”. There was some discussion about the words “ religious figure ”. It was resolved to keep the words “ religious figure ” until better words could be found.

Sub-clause (1), item (vii).—Approved.

It was resolved to take up the Explanations I to III of clause 4, at this stage, and to insert them here instead of in clause 4.

Sri M. Kalyanasundram pointed out that stories containing historical background having some expressions coming under any of the items of sub-clause (1) of clause 2 should not come under “ objectionable performances ”.

It was resolved to alter Explanation II as follows :—

“ In judging whether any performance is an objectionable performance, the play, plantomime or drama shall be considered as a whole.”

Explanation I was accepted.

Explanation III was deleted as unnecessary.

Clause 2 was to be redrafted in accordance with the above decisions.

Clause 3.

After some discussion it was decided to omit this clause and to alter clause 12 so as to render a prosecution under the Indian Penal Code or any other law possible in cases where no action has been taken under clauses 4 and 5 of this Bill.

Clause 4.

For the words “ principal persons taking part in ” in sub-clause (2) the words “ organizer or other principal persons responsible for the conduct of ” were substituted.

Sub-clauses (1) to (4) were approved.

Sri M. Kalyanasundram suggested that the orders passed under clause 4 by the State Government might be subject to a revision by an Advisory Board. After discussion he did not press the suggestion.

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Clause 5.

The Committee agreed to delete the words "the State Government" in this clause.

The Chairman stated that it was the idea of the Government to empower District Collectors in the districts and the Commissioner of Police in the City of Madras to pass orders under this clause. The change was made in this clause and in the other clauses where the wording "such officer as they may empower in this behalf" occurred.

Sub-clause (1) of this clause was altered as follows:—

"The District Collector or in the City of Madras the Commissioner of Police may, if he is of opinion that any play, pantomime or other drama is performed or about to be performed being of the nature specified in section 2 is likely to lead to a breach of the peace, by order stating the grounds for such opinion, prohibit its performance."

Consequential verbal changes were made also in the proviso.

Clause 6.

The heading of the clause was changed as follows:—

"Service of notice of prohibition".

Clauses 7 and 8.

It was agreed that the maximum punishment under this clause should be three months or a fine of one thousand rupees or both.

Clause 8.

In this clause, the Committee decided to delete sub-clause (b). It also decided that the clause should be split into two sub-clauses one relating to sub-clause (a) and another relating to sub-clause (c).

Clause 9.

It was decided to substitute the words, "the District Collector or in the City of Madras the Commissioner of Police" in the place of the words "or such officer as they may empower in this behalf".

Clause 10.

The same changes were made in this clause also.

The Committee thought that the temporary prohibition of a drama for 15 days might cause hardship and so the words "seven days" were substituted for the words "fifteen days".

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Clause 11.

Sri S. S. Kolkebail suggested that aggrieved persons in the districts should be allowed to prefer an appeal to the Sessions Court and then, if necessary to the High Court. The Advocate-General pointed out that this would lead to different orders being passed by different courts and that it was better that there was an appeal to the High Court direct. It was decided to retain the clause as it stood. But it was agreed that the reference to orders under section 3 of the Dramatic Performance Act of 1876 might be omitted.

Clause 12.

The Committee approved of some such clause as the following clause to be substituted for the existing clause :

“ Where no order has been made under section 4 or under section 5, nothing in this Act shall bar a prosecution under the Indian Penal Code or any other law in respect of any offence committed.”

Clause 13.

The words, “ District Collector or in the City of Madras the Commissioner of Police ”, were substituted for the words “ any authority or officer ”.

Clause 14.

At the instance of the Chairman, it was resolved that a provision should be made for the placing of the rules on the table of the House.

Clause 15.

Sub-clause (1) approved.

Sub-clause (2) deleted.

The Committee decided to meet again at 4-30 p.m. the next day, at the Ministers' Room, Government Estate, Mount Road.

Thursday, the 16th December 1954.

The Select Committee met at 4-30 p.m. on Thursday, the 16th December 1954, in the Ministers' Room in Government Estate, Mount Road, Madras.

The following members were present :—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. RAJARAM.
- 4 Sri C. R. RAMASWAMI.
- 5 Sri M. D. THYAGARAJA PILLAI.
- 6 Sri K. ARANGANATHAN.

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- 7 Sri S. N. SOMAYAJULU.
- 8 Sri A. ANTONY PETER.
- 9 Sri P. G. MANICKAM.
- 10 Sri K. VINAYAKAM.
- 11 Sri V. GOVINDASAMI NAIDU.
- 12 Sri S. SWAYAMPRAKASAM.
- 13 Sri A. VELOO.
- 14 Sri S. S. KOLKEBAIL.
- 15 Sri M. KALYANASUNDRAM.
- 16 Sri T. C. NARAYANAN NAMBIAR.

The Advocate-General, the Secretary to the State Legislature and the Secretary to Government, Law Department, were also present.

Clause 2 (vi) was reopened. The Hon. the Chairman moved that for the words "deliberately and maliciously intended, etc.", the following words may be inserted:—

"deliberately intended to offend any section of the people of India by insulting, profaning or blaspheming their religion or religious beliefs."

Clause 11.

At the instance of the Advocate-General, the Committee inserted a new sub-clause to the effect that every appeal under this section shall be disposed of by a bench consisting of not less than two Judges.

Sri Vinayakam suggested that a special provision should be made exempting from the definition of an objectionable performance, dramas intended to bring about social reform. This was not accepted.

The Chairman was authorized to sign the report.

It was decided that the Bill need not be republished, and that dissenting minutes should be sent before 10 a.m. tomorrow (17th December 1954).

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS,
16th December 1954.

R. V. KRISHNA AYYAR,
Secretary to the State Legislature.

THE MADRAS DRAMATIC PERFORMANCES BILL,
1954 (L.A. BILL No. 37 OF 1954).

DISSENTING MINUTES.

I

One cannot understand the feverish haste in which the Government wants to hustle through this Bill. In spite of the protests that are being made by the Members of the Opposition from the beginning that such a legislation should not be rushed through in the way in which it is being done, the Government is anxious to have it passed by this House before the end of this sitting.

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It has not been made clear in the Statement of Objects and Reasons of the Bill, why this legislation is necessary at this stage. The only reason that has been mentioned therein is this: The Act of 1876 contains no provision for giving an opportunity to the parties affected to make their objections or enabling them to take the matter on appeal or revision before higher authority and the Government have, therefore, decided to re-enact its provisions and repeal the 1876 Act. But the Minister for Finance, who introduced the Bill, gave different reasons on the floor of the House, besides the one mentioned in the Bill. He said that there was a case filed by the Government against a dramatist who gave a performance at Salem which could not successfully be prosecuted for want of proper legislation. The House was not given the opportunity of knowing the nature of that case and in what way the Government felt the defective nature of the existing law to meet the situation. Hence the House is unable to feel the necessity of such a piece of legislation on the Statute Book.

If it be a question of making a provision of appeal, the existing provisions of 1876 Act with a new clause for the purpose would have fulfilled the purpose. If it be the other reason, the House must be satisfied or it must be in a position to say whether the new Bill is enough to satisfy the defect. Since the defect of the existing law and the purpose of the new Bill are not clearly stated, it has to be observed that the Government has not taken the House into their confidence.

The new Bill is not at all necessary. Section 2 of the Bill seeks to narrate six kinds of objectionable plays or dramas. The subsequent provisions of the Bill deal mainly with the procedural part of the object of the Bill. The offences which are mentioned in the six clauses of section 2 of the Bill are amply provided against in the Indian Penal Code. The punishment in the Indian Penal Code for the various provisions is a sufficient warning to any person who thinks of enacting any play which is likely to promote any offence mentioned therein. Further, preventive sections are amply provided in the Criminal Procedure Code.

In addition, to have such a piece of legislation means to effectively curtail the freedom of speech and expression given under Article 19 (1) (a) and to control the freedom to practise any profession or to carry on any occupation, trade or business guaranteed under Article 19 (1) (g) of the Constitution of India. The Indian society is full of caste prejudices and superstitious beliefs. Our Constitution aims at a casteless society with a view to have an effective welfare and secular State. No one can deny that dramas are powerful vehicle of propaganda. To achieve this object, namely, reformation of our society in a lawful way, the Government should help dramatists and play-writers to have social dramas and plays. Absence of positive provision to encourage such plays in the Bill is deplorable.

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The profession of dramatists will greatly be affected adversely because of this Bill. The profession of dramatists is in the initial stage. Before enacting a play, the script has to be submitted for perusal either to the Government or to the Collector or to both as the case may be. If prohibited after perusal by either of these authorities, the affected party has to fight the matter in the High Court according to the provisions of the Bill. These provisions will cause not only delay but enormous expenditure. These provisions will sufficiently discourage any person from undertaking this profession or business as such. If this Bill is passed into law this will do more harm than good to the people of the State.

MADRAS,
17th December 1954.

K. VINAYAKAM.
A. VELOO.
S. SWAYAMPRAKASAM.

II

We are totally opposed to the recommendations of the majority of the Select Committee. At the very outset in the Select Committee we moved a resolution that the Committee recommend that the Bill be dropped. But the majority decided otherwise. The entire proceedings of the Committee have confirmed us in our view.

The evidence tendered before the Committee not only does not warrant their recommendation, but has brought out in clearest terms the pernicious character of the Bill.

The few changes in the draft Bill made in the Select Committee do not in any way mitigate the grave danger that the arming of the executive with powers of prohibition constitutes to the development of a free culture through the medium of the drama.

The Bill seeks to clothe the State Government and its officers with powers to prohibit what are termed as 'objectionable performances', which have been defined in the Bill as a drama or pantomime which is likely to—

(1) incite any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area; or

(2) incite any person to commit murder, sabotage or any offence involving violence; or

(3) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or

(4) incite any section of the citizens of India to acts of violence against any other section of the citizens of India; or which

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(5) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class; or

(6) is grossly indecent, or is scurrilous or obscene or intended for blackmail.

It will be realized that under the existing Criminal Law, incitement to any of the above things, through any written, spoken or visible medium including the drama or the pantomime, is an offence. Any citizen guilty of such an offence is punishable under the existing law.

We are not now concerned with the question whether these should continue to be offences or not.

The question this Committee is confronted with is, whether in addition to the existing Criminal Law, the executive should be armed with a special preventive law, vesting very wide powers in the executive.

In any civilized country in the world, the law normally defines the crimes and prescribes the punishments for transgression.

This proceeds from the basic conception that the overwhelming majority of the people are law-abiding citizens, and the preservation of their rights is the fundamental task of the society and the Government.

But a preventive law clothes the Government with powers to prohibit the exercise of these fundamental rights by citizens, if the executive authority is satisfied that the exercise of these rights by certain person or persons would lead to the commission of a crime. Thus the subjective satisfaction by the executive is sufficient for depriving the citizen of his fundamental rights. The result is that the exercise of these rights is placed entirely at the mercy of the executive. This means that the rights of citizens become secondary and subordinate.

That is why, no civilized Government resorts to preventive law, except in cases of where there is a state of war, or extreme civil commotion.

The alien British rulers of our country, who were hated by the people and in their turn, were afraid of the people naturally had enacted a series of such pieces of preventive legislation. Various sections of the Criminal Procedure Code, the Criminal Tribes Act, the Rowlatt Act, the Defence of the Realm Act, the Criminal Law Amendment Act, etc., are examples of such legislation resorted to by the alien Government.

Any student of Modern Indian History in the British period knows that our people have written glorious pages of prolonged and determined struggle against those laws, as part of the struggle against British rule.

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The present Bill seeks to negate these traditions, and seeks to take our country back to the dark days of British rule, when not the rights of our people but the protection of certain vested interests was held to be the supreme task of the Government.

No evidence of any grave emergency, which would justify the vesting of prohibitive powers in the executive—not even for a temporary period—has been placed before the Committee. Leave alone the question of a grave emergency, no evidence even that widespread use of the medium of the drama by large number of citizens in the State, for purposes of inciting people to crimes has been adduced before the Committee.

We now indicate broadly how the specific powers sought by the Government through this Bill, will have no other effect than that of hampering the growth of a free culture through the medium of drama which is one of the most ancient art forms that our genius has evolved.

Section 3 gives power to the State Government to absolutely prohibit a drama on the ground that it is 'objectionable performance'.

Although, such prohibition can be imposed only after giving a 'reasonable opportunity' to the affected party, the decision rests with *the executive*.

The right of appeal against the decision of the Government under section 10 does not negate the fact that the individual's right has already been subjected to the mercy of the executive. What this means in the case of dramatic performances can easily be imagined. It is not an ordinary thing. It involves expenditure of tremendous amount of money, energy and resources of hundreds of individuals. After spending all these, they will find suddenly that all these have been wasted absolutely, simply because the executive Government has decided, in its judgment, that the performance is an objectionable one.

Section 4 of the Act empowers the Commissioner of Police, in the Presidency Town or the Collector, to prohibit a performance if he is of opinion that it is likely to be 'objectionable' and to lead to a breach of peace.

Thus, the District Collectors—men who have never been known to set much store for the rights of our people, have been clothed with powers of prohibition. It is their opinion that is to rule supreme.

The proviso to this section further empowers the officer to go on extending it by every two months, thus permanently depriving the citizens of their fundamental rights.

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Section 8 gives power to call for information from all persons. This information need not be only that relating to the script of the drama, but any information which the authority 'may deem necessary'. Any information that the citizen is not bound to disclose normally can be covered under this clause, failure to disclose which becomes an offence.

The provision for an appeal under section 10, notwithstanding, the pernicious effect of the provisions are patent. The Government or its officers, can always prohibit a drama at the first instance. Dramas are organized for particular occasions. Once the Government or an officer prohibits the performance on these occasions, a subsequent reversal of the order by the High Court, although it might be a vindication of the rights of the parties affected, cannot obliterate the fact that the exercise of the right of the citizens at the right moment has been prevented. And such prevention of the exercise of rights at appropriate and opportune occasions, is tantamount to a denial of the right.

Moreover, court procedure is not only a long process, taking lot of time, but also means lot of expenditure to the parties concerned. It is not every one that can have the resources to avail of this right. In practice, it is the poorer classes of artists against whom these provisions will be used.

All these provisions have the net effect that it is not for the executive to prove that any citizen has misused the rights he enjoys and call for appropriate action from the judicial organs, but the citizen will have to establish his *bona fides* first against the attacks of the executive before he can exercise his fundamental rights. This is a mockery of the very concept of fundamental rights.

The dramatic art cannot grow and develop with such crippling shackles.

Instead of the weapon of the drama being developed as a great democratic weapon for the people by free citizens, free from the fear of official interference, this will lead to the emergence of a set of servile people, in whose hands the art will degenerate into a few command performances suited to the interests of the ruling class. The Bill is a great blow to democracy.

The fact that without any evidence of an emergency, without any evidence of the need for prohibition, the Government have come forward to demand such a sweeping power and prohibition as a permanent measure on the Statute Book is the clearest proof of the motives of the Government. It is clear that the Government is afraid of the growing criticism of its policies and of the interests which it seeks to protect. It knows that the drama is increasingly becoming a powerful weapon for exposing the Government and the most rotten and parasitic classes of Indian society against whom the anger of the down-trodden and exploited masses are mounting in strength.

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It is exactly to prevent this growth, that the Bill has been brought forward. In no other way can the demand for these sweeping powers be explained.

There are enough powers in the existing Criminal Law to prosecute individuals who commit any offence, including that of outrage on the religious sentiments of any section of the people.

The executive can never be entrusted with such sweeping powers as are demanded by this Bill, which virtually mortgages the fundamental rights of citizens to the tender mercy of a bureaucracy.

We are therefore unable to recommend this Bill to the Legislature. On the other hand, we are convinced that the interests of our people, the glorious traditions that generations of our people have created, and the interest of a free and democratic culture all demand that the Legislature should reject the Bill, as recommended by the majority of the Select Committee.

MADRAS,

17th December 1954.

M. KALYANASUNDRAM.

T. C. NARAYANAN NAMBIAR.

MADRAS,

17th December 1954.

R. V. KRISHNA AYYAR,

Secretary to the State Legislature.

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS